

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL  
Special District Local  
Laws Code  
Chapter 6912  
9/5/14

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6	CHAPTER 6912. MEMORIAL VILLAGES WATER AUTHORITY	
7	SUBCHAPTER A. GENERAL PROVISIONS	
8	<u>Revised Law</u>	
9	Sec. 6912.001. DEFINITIONS. In this chapter:	
10	(1) "Authority" means the Memorial Villages Water	
11	Authority.	
12	(2) "Board" means the board of supervisors of the	
13	authority.	
14	(3) "Supervisor" means a member of the board. (Acts	
15	57th Leg., 3rd C.S., Ch. 20, Sec. 1 (part); New.)	
16	<u>Source Law</u>	
17	Sec. 1. . . . a . . . district to be known as	
18	"Memorial Villages Water Authority" (hereinafter	
19	referred to as the Authority), . . . .	
20	<u>Revisor's Note</u>	
21	The definitions of "board" and "supervisor" are	
22	added to the revised law for drafting convenience and	
23	to eliminate frequent, unnecessary repetition of the	
24	substance of the definitions.	
25	<u>Revised Law</u>	
26	Sec. 6912.002. NATURE OF AUTHORITY. The authority is a	
27	conservation and reclamation district created under Section 59,	
28	Article XVI, Texas Constitution, and a political subdivision of	
29	this state. (Acts 57th Leg., 3rd C.S., Ch. 20, Sec. 1 (part).)	
30	<u>Source Law</u>	
31	Sec. 1. Pursuant to, and as expressly	
32	authorized by Section 59, Article XVI of the	
33	Constitution of the State of Texas, and in addition to	
34	all other districts into which the State has been	
35	divided heretofore, there is hereby created a	
36	conservation and reclamation district . . . which	
37	shall be recognized to be a governmental agency, a body	
38	politic and corporate, and a political subdivision of	
39	this State. . . .	

1 Revisor's Note

2 (1) Section 1, Chapter 20, Acts of the 57th  
3 Legislature, 3rd Called Session, 1962, states that the  
4 authority is created "in addition to all other  
5 districts into which the State has been divided  
6 heretofore." The revised law omits the quoted  
7 language because the absence of the language does not  
8 imply that the district is not in addition to other  
9 districts created in this state.

10 (2) Section 1, Chapter 20, Acts of the 57th  
11 Legislature, 3rd Called Session, 1962, refers to the  
12 authority as "a governmental agency, a body politic  
13 and corporate." The revised law omits the quoted  
14 language because it duplicates a portion of Section  
15 59(b), Article XVI, Texas Constitution, which provides  
16 that a conservation and reclamation district is a  
17 governmental agency and a body politic and corporate.

18 Revised Law

19 Sec. 6912.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)  
20 The authority is created to serve a public use and benefit.

21 (b) All land included in the boundaries of the authority  
22 will benefit from the authority.

23 (c) The authority is essential to the accomplishment of the  
24 preservation and conservation of the natural resources of this  
25 state.

26 (d) This chapter addresses a subject in which the state and  
27 general public are interested.

28 (e) Because the accomplishment of the purposes stated in  
29 this chapter is for the benefit of the people of this state and for  
30 the improvement of their property and industries, the authority in  
31 carrying out the purposes of this chapter will be performing an  
32 essential public function under the Texas Constitution. (Acts 57th  
33 Leg., 3rd C.S., Ch. 20, Secs. 2 (part), 9 (part), 11 (part).)



1                                   Revisor's Note

2           The revised law does not revise the statutory  
3    language describing the territory of the authority to  
4    avoid the lengthy recitation of the description and  
5    because that description may not be accurate on the  
6    effective date of the revision or at the time of a  
7    later reading. For the reader's convenience, the  
8    revised law includes references to the statutory  
9    description of the authority's territory and to the  
10   statutory authority to change the authority's  
11   territory under Subchapter G, Chapter 53, Water Code,  
12   which applied to the authority under Section 4,  
13   Chapter 20, Acts of the 57th Legislature, 3rd Called  
14   Session, 1962 (see Section 6912.101 of this chapter),  
15   until that subchapter was repealed in 1995, and under  
16   Subchapter J, Chapter 49, Water Code, applicable to  
17   the authority under Sections 49.001 and 49.002 of that  
18   chapter. The revised law also includes a reference to  
19   the general authority of the legislature to enact  
20   other laws to change the authority's territory.

21                                   Revised Law

22       Sec. 6912.005. CORRECTION OF INVALID PROCEDURES. If a  
23   court holds that any procedure under this chapter violates the  
24   constitution of this state or of the United States, the authority by  
25   resolution may provide an alternative procedure that conforms with  
26   the constitution. (Acts 57th Leg., 3rd C.S., Ch. 20, Sec. 12  
27   (part).)

28                                   Source Law

29       Sec. 12. . . . [Federal or State Constitutions]  
30   . . . . Where any procedure hereunder may be held by  
31   any court to be violative of either of such  
32   constitutions the Authority shall have the power by  
33   resolution to provide an alternative procedure  
34   conformable to such constitutions. . . .

35                                   Revisor's Note

36       Section 12, Chapter 20, Acts of the 57th

Legislature, 3rd Called Session, 1962, provides that the act may not be construed to violate the federal or state constitution and requires that action under the act comply with the constitutions. The revised law omits the reference to the federal constitution because, under the Supremacy Clause of the United States Constitution (Clause 2, Article VI), the federal constitution always takes precedence over a state statute. The revised law omits the reference to the state constitution because the state legislature cannot modify constitutional provisions by statute. The omitted law reads:

Sec. 12. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions and all acts done hereunder shall be done in such manner as may conform thereto whether herein expressly provided or not. . . .

#### Revised Law

Sec. 6912.006. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to effect its purposes. (Acts 57th Leg., 3rd C.S., Ch. 20, Sec. 11 (part).)

#### Source Law

Sec. 11. . . . All the terms and provisions of this Act are to be liberally construed to effectuate the purposes herein set forth.

### SUBCHAPTER B. BOARD OF SUPERVISORS

#### Revised Law

Sec. 6912.051. COMPOSITION OF BOARD. The board consists of seven elected supervisors. (Acts 57th Leg., 3rd C.S., Ch. 20, Secs. 3(a) (part), (b) (part).)

#### Source Law

Sec. 3. (a) The rights, powers and duties of the Authority shall be exercised by a Board of Supervisors composed of seven (7) members. . . .  
(b) . . . Succeeding Supervisors shall be elected or . . . .

#### Revisor's Note

(1) Section 3(a), Chapter 20, Acts of the 57th

1 Legislature, 3rd Called Session, 1962, provides that  
2 "[t]he rights, powers and duties of the Authority  
3 shall be exercised by" the board. The revised law  
4 omits the quoted language because it duplicates, in  
5 substance, parts of Sections 49.051 and 49.057, Water  
6 Code. Throughout this chapter, the revised law omits  
7 law that is superseded by Chapter 49, Water Code, or  
8 that duplicates law contained in that chapter.  
9 Chapter 49 (enacted in 1995) applies to the authority  
10 under Sections 49.001 and 49.002 of that chapter.

11 (2) Section 3(b), Chapter 20, Acts of the 57th  
12 Legislature, 3rd Called Session, 1962, refers to  
13 "[s]ucceeding [s]upervisors" to distinguish the  
14 succeeding supervisors from the initial supervisors  
15 named in that section. The revised law omits  
16 "succeeding" because all provisions referring to  
17 initial supervisors are omitted as executed and the  
18 distinction is no longer required.

19 Revised Law

20 Sec. 6912.052. QUALIFICATIONS FOR OFFICE. A supervisor  
21 must:

22 (1) be at least 18 years of age; and

23 (2) reside in and own land in the authority. (Acts  
24 57th Leg., 3rd C.S., Ch. 20, Sec. 3(a) (part).)

25 Source Law

26 (a) . . . No person shall be a Supervisor unless  
27 he is at least twenty-one (21) years of age, and  
28 resides in and owns land in the territorial limits of  
29 the Authority. . . .

30 Revisor's Note

31 Section 3(a), Chapter 20, Acts of the 57th  
32 Legislature, 3rd Called Session, 1962, states that a  
33 person must be "at least twenty-one (21) years of age"  
34 to serve as a supervisor. The revised law substitutes  
35 "at least 18 years of age" for the quoted language

1 because Section 129.001, Civil Practice and Remedies  
2 Code, establishes 18 years of age as the age of  
3 majority in this state. Section 129.002, Civil  
4 Practice and Remedies Code, provides that a law  
5 adopted before August 27, 1973, that extends a right,  
6 privilege, or obligation to an individual on the basis  
7 of a minimum age of 19, 20, or 21 years shall be  
8 interpreted as prescribing a minimum age of 18 years.  
9 Section 3(a) was enacted in 1962 and has not been  
10 amended.

11 Revised Law

12 Sec. 6912.053. ELIGIBILITY FOR CANDIDACY FOR BOARD  
13 POSITIONS. (a) To be eligible as a candidate for Position 1 or  
14 Position 2, a person must at the time be a resident of the City of  
15 Hedwig Village, Texas.

16 (b) To be eligible as a candidate for Position 3 or Position  
17 4, a person must at the time be a resident of the City of Hunters  
18 Creek Village, Texas.

19 (c) To be eligible as a candidate for Position 5 or Position  
20 6, a person must at the time be a resident of the City of Piney Point  
21 Village, Texas.

22 (d) Position 7 is an at-large position. (Acts 57th Leg.,  
23 3rd C.S., Ch. 20, Sec. 3(c) (part).)

24 Source Law

25 (c) No person shall be eligible as a candidate  
26 for Position 1 or Position 2 unless he is at the time a  
27 bona fide resident of the City of Hedwig Village,  
28 Texas.

29 No person shall be eligible as a candidate for  
30 Position 3 or Position 4 unless he is at the time a bona  
31 fide resident of the City of Hunter's Creek Village,  
32 Texas.

33 No person shall be eligible as a candidate for  
34 Position 5 or Position 6 unless he is at the time a bona  
35 fide resident of the City of Piney Point Village,  
36 Texas.

37 Position 7 shall be classed as an "at large"  
38 position, and . . . .

39 Revisor's Note

40 (1) Section 3(c), Chapter 20, Acts of the 57th



1 Legislature, 3rd Called Session, 1962, provides that  
2 any person who meets the other requirements for  
3 supervisor and who resides in the authority is  
4 eligible as a candidate for Position 7. The revised  
5 law omits that provision because the requirements for  
6 supervisor apply on their own terms, including Section  
7 6912.052 of this chapter, which requires a supervisor  
8 to reside in the authority. The omitted law reads:

9 (c) . . . [Position 7 shall be  
10 classed as an "at large" position, and] any  
11 person meeting the other requirements for  
12 Supervisor who resides within the  
13 territorial limits of the Authority shall  
14 be eligible for the office.

15 (2) Section 3(c), Chapter 20, Acts of the 57th  
16 Legislature, 3rd Called Session, 1962, provides that  
17 only a "bona fide resident" of a certain municipality  
18 is eligible as a candidate for certain supervisor  
19 positions. The revised law omits "bona fide" as  
20 unnecessary because the phrase does not add to the  
21 clear meaning of the law. A person who does not  
22 actually reside in a certain municipality is not a  
23 resident of that municipality.

#### 24 Revised Law

25 Sec. 6912.054. SUPERVISORS' ELECTION. (a) Notice of a  
26 supervisors' election must be published once in a newspaper of  
27 general circulation in Harris County at least 30 days before the  
28 date of the election.

29 (b) The election order must state the time, place, and  
30 purpose of the election. (Acts 57th Leg., 3rd C.S., Ch. 20, Sec.  
31 3(e) (part).)

#### 32 Source Law

33 (e) . . . Notice of any such election for  
34 Supervisors shall be published in a newspaper of  
35 general circulation in Harris County one time at least  
36 thirty (30) days before the election. The election  
37 order shall state the time, the place or places and the  
38 purpose of the election, and . . . .

1                                    Revised Law

2            Sec. 6912.055. BALLOT PROCEDURE FOR CANDIDATES. (a) A  
3 person who wants the person's name printed on the ballot as a  
4 candidate for supervisor must submit a petition to the board's  
5 secretary requesting that action.

6            (b) The petition must be:

7                    (1) signed by at least 10 residents of the authority  
8 who are qualified to vote at the election; and

9                    (2) presented to the board's secretary not later than  
10 the 21st day before the date of the election. (Acts 57th Leg., 3rd  
11 C.S., Ch. 20, Sec. 3(f).)

12                                    Source Law

13                    (f) Any candidate for Supervisor desiring to  
14 have his name printed on the ballot may do so by a  
15 petition so requesting signed by not less than ten (10)  
16 residents of the Authority who are qualified to vote at  
17 the election. Such petition shall be presented to the  
18 Secretary of the Board of Supervisors not less than  
19 twenty (20) full days prior to the date of the  
20 election.

21                                    Revised Law

22            Sec. 6912.056. SUPERVISOR'S BOND. Each supervisor shall  
23 give a bond in the amount of \$5,000 for the faithful performance of  
24 the supervisor's duties. (Acts 57th Leg., 3rd C.S., Ch. 20, Sec.  
25 3(a) (part).)

26                                    Source Law

27                    (a) . . . [Each Supervisor shall . . . and]  
28 each shall give bond in the amount of Five Thousand  
29 Dollars (\$5,000) for the faithful performance of his  
30 duties, . . . .

31                                    Revisor's Note

32            Section 3(a), Chapter 20, Acts of the 57th  
33 Legislature, 3rd Called Session, 1962, provides that  
34 the authority shall pay the cost of a supervisor's  
35 bond. The revised law omits that provision because it  
36 duplicates, in substance, Section 49.055(c), Water  
37 Code. The omitted law reads:

38                    (a) . . . [Each Supervisor . . .  
39 shall give bond] . . . the cost of which  
40 shall be paid by the Authority. . . .

1                                    Revised Law

2            Sec. 6912.057. VACANCIES. A vacancy on the board shall be  
3 filled by appointment by the remaining supervisors until the next  
4 election of supervisors for the authority. If the position is not  
5 scheduled to be filled at the election, the person elected to fill  
6 the position shall serve only for the remainder of the unexpired  
7 term. (Acts 57th Leg., 3rd C.S., Ch. 20, Secs. 3(b) (part), (d)  
8 (part).)

9                                    Source Law

10            (b) . . . [Succeeding supervisors shall be  
11 elected or] appointed as hereinafter provided.

12            (d) . . . All vacancies shall be filled by  
13 appointment by the remaining members until the next  
14 election of supervisors for the Authority. If that  
15 position is not scheduled to be filled at that  
16 election, the person elected to fill the position  
17 shall serve only for the remainder of the unexpired  
18 term.

19                                    Revisor's Note  
20                                    (End of Subchapter)

21            (1) Section 3(a), Chapter 20, Acts of the 57th  
22 Legislature, 3rd Called Session, 1962, provides that  
23 each supervisor shall serve until the supervisor's  
24 successor is elected or appointed and qualified. The  
25 revised law omits that provision because Section 17,  
26 Article XVI, Texas Constitution, requires an officer  
27 to continue to perform the officer's duties until a  
28 successor has qualified. The omitted law reads:

29                    (a) . . . Each Supervisor shall serve  
30 a term of office as herein provided, and  
31 thereafter until his successor shall be  
32 elected or appointed and have  
33 qualified. . . .

34            (2) Section 3(a), Chapter 20, Acts of the 57th  
35 Legislature, 3rd Called Session, 1962, provides that a  
36 supervisor shall subscribe to the constitutional oath  
37 of office. The revised law omits that provision  
38 because Section 1, Article XVI, Texas Constitution,  
39 requires all elected and appointed officers to take  
40 the oath (or affirmation) before assuming office. The

1           omitted law reads:

2                   (a) . . . Each Supervisor shall  
3                   subscribe to the constitutional oath of  
4                   office and . . . .

5           (3) Section 3(a), Chapter 20, Acts of the 57th  
6           Legislature, 3rd Called Session, 1962, provides that a  
7           majority of the supervisors constitutes a quorum. The  
8           revised law omits that provision because it  
9           duplicates, in substance, Section 49.053, Water Code.  
10          The omitted law reads:

11                   (a) . . . A majority of said Board  
12                   shall constitute a quorum for the  
13                   transaction of any and all business.

14          (4) Section 3(b), Chapter 20, Acts of the 57th  
15          Legislature, 3rd Called Session, 1962, refers to the  
16          initial board of supervisors and to vacancy procedures  
17          for the initial board. The revised law omits the  
18          language relating to the creation of the initial board  
19          as executed. The omitted law reads:

20                   (b) Immediately after this Act  
21                   becomes effective, the following named  
22                   persons, all of whom are found to be  
23                   qualified, shall be the Supervisors of the  
24                   Authority and shall constitute the Board of  
25                   Supervisors of the Authority:

26                           Position 1 - Jack M. Snowden  
27                           Position 2 - Tom H. Tennent  
28                           Position 3 - George A. Daniels  
29                           Position 4 - N. Hall McCord  
30                           Position 5 - J. M. Lebeaux  
31                           Position 6 - Frank A. DeWalch  
32                           Position 7 - Glen Wood Bruner

33                   If any of the aforementioned persons  
34                   shall become incapacitated or otherwise not  
35                   be qualified to assume his duties under this  
36                   Act, the remaining Supervisors shall  
37                   appoint his successor. . . .

38          (5) Section 3(d), Chapter 20, Acts of the 57th  
39          Legislature, 3rd Called Session, 1962, states that a  
40          supervisor holds office for a four-year term. The  
41          revised law omits the provision because it duplicates,  
42          in substance, Section 49.103(a), Water Code. The  
43          omitted law reads:

44                   (d) A member of the board of  
45                   supervisors shall hold office for a

1 four-year term and . . . .

2 (6) Section 3(d), Chapter 20, Acts of the 57th  
3 Legislature, 3rd Called Session, 1962, provides that a  
4 supervisor shall serve until the supervisor's  
5 successor is elected and has qualified. The revised  
6 law omits that provision for the reason stated in  
7 Revisor's Note (1). The omitted law reads:

8 (d) [A member of the board of  
9 supervisors] . . . shall serve until his  
10 successor is elected and has  
11 qualified. . . .

12 (7) Section 3(d), Chapter 20, Acts of the 57th  
13 Legislature, 3rd Called Session, 1962, requires an  
14 election of supervisors to be held on the first  
15 Saturday in May of even-numbered years or at whatever  
16 other date is established by law for election of  
17 officials of general law cities. The revised law omits  
18 the provision as superseded by Section 49.103(b),  
19 Water Code, enacted in 1995. Section 49.103(b)  
20 requires board elections to be held on the uniform  
21 election date established by the Election Code in May  
22 of each even-numbered year. The omitted law reads:

23 (d) . . . It is specifically provided  
24 that there shall be a General Election  
25 within the Authority for election of  
26 supervisors on the first Saturday in May of  
27 even-numbered years or at whatever other  
28 date is established by law for election of  
29 officials of General Law cities. . . .

30 (8) Section 3(e), Chapter 20, Acts of the 57th  
31 Legislature, 3rd Called Session, 1962, provides that  
32 the board shall order "[a]ll elections," meaning  
33 elections of supervisors. The revised law omits that  
34 provision because it duplicates, in substance, Section  
35 3.004, Election Code, applicable to the authority  
36 under Sections 1.002 and 3.001, Election Code.  
37 Section 3.004 requires the governing body of a  
38 political subdivision that has elective offices to  
39 order the general election for those officers. The

omitted law reads:

(e) All elections shall be ordered by  
the Board of Supervisors and . . . .

(9) Section 3(e), Chapter 20, Acts of the 57th  
Legislature, 3rd Called Session, 1962, provides that  
authority elections "shall be held in accordance with  
the Texas Election Code." The revised law omits the  
quoted language because Section 1.002, Election Code,  
provides that the Election Code applies to all  
elections held in this state. The omitted law reads:

(e) [All elections] . . . shall be  
held in accordance with the Texas Election  
Code. . . .

(10) Section 3(e), Chapter 20, Acts of the 57th  
Legislature, 3rd Called Session, 1962, provides for  
the appointment of presiding judges, assistant judges,  
and clerks for each voting place. The revised law  
omits that provision as superseded by the 1985  
enactment of the Election Code, applicable to the  
authority under Section 1.002, Election Code. Chapter  
32, Election Code, governs the selection of election  
judges and clerks. The omitted law reads:

(e) . . . the Board of Supervisors  
shall appoint a presiding judge for each  
polling place who shall appoint one  
assistant judge and at least two (2) clerks  
to assist in holding such election. . . .

(11) Section 3(e), Chapter 20, Acts of the 57th  
Legislature, 3rd Called Session, 1962, provides that  
only qualified electors who reside in the authority  
are entitled to vote at an election for the board. The  
revised law omits that provision because it  
duplicates, in substance, Sections 11.001(1) and (2),  
Election Code, which provide that to be eligible to  
vote in an election a person must be a qualified voter  
as defined by Section 11.002, Election Code, and be a  
resident of the territory covered by the election. The

1       omitted law reads:

2               (e) . . . Only qualified electors  
3       residing in the Authority shall be entitled  
4       to vote at an election on the Board of  
5       Supervisors. . . .

6               (12) Section 3(e), Chapter 20, Acts of the 57th  
7       Legislature, 3rd Called Session, 1962, provides that  
8       the candidate receiving the highest number of votes  
9       for each position is elected. The revised law omits  
10      that provision because it duplicates, in substance,  
11      Section 2.001, Election Code, which provides that,  
12      except as otherwise provided by law, to be elected to a  
13      public office, a candidate must receive more votes  
14      than any other candidate for the office. The omitted  
15      law reads:

16              (e) . . . The candidates receiving  
17      the highest number of votes shall be  
18      declared elected. . . .

19              (13) Section 3(e), Chapter 20, Acts of the 57th  
20      Legislature, 3rd Called Session, 1962, provides that  
21      the board shall receive and canvass the election  
22      returns and enter an order declaring the results. The  
23      revised law omits that provision as superseded by the  
24      1985 enactment of the Election Code, applicable to the  
25      authority under Section 1.002, Election Code. Chapter  
26      67, Election Code, provides for the canvass of  
27      elections. The omitted law reads:

28              (e) . . . Returns of the election  
29      shall be made to and canvassed by the Board  
30      of Supervisors of said Authority, which  
31      shall enter its order declaring the results  
32      of the election.

33              (14) Section 2, Chapter 520, Acts of the 71st  
34      Legislature, Regular Session, 1989, contains  
35      transition language regarding supervisors' elections  
36      for the years 1990, 1991, and 1992, and the terms of  
37      office of the supervisors elected at those elections.  
38      Section 2 also establishes a pattern under which four

specific positions on the board are elected in 1990 and every fourth year thereafter, and the remaining three specific positions are elected in 1992 and every fourth year thereafter. The revised law omits the language relating to the 1990, 1991, and 1992 elections as executed because the terms of office of those supervisors have expired and the elections have been held. To the extent the omitted language establishes a pattern under which specific positions are on the ballot, retaining the language is unnecessary because Section 49.103, Water Code, requires that the supervisors serve staggered four-year terms; accordingly, the authority must hold elections following that established pattern. The omitted law reads:

Sec. 2. (a) On the first Saturday in May 1990, an election shall be held in the Memorial Villages Water Authority to elect supervisors to supervisor positions designated 2, 4, 6, and 7, and the persons elected shall serve four-year terms.

(b) On the first Saturday in May 1991, an election shall be held in the authority to elect supervisors to supervisor positions 1, 3, and 5, and the persons elected shall serve one-year terms.

(c) On the first Saturday in May 1992, an election shall be held in the authority to elect supervisors to supervisor positions 1, 3, and 5, and the persons elected shall serve four-year terms.

#### SUBCHAPTER C. POWERS AND DUTIES

##### Revised Law

Sec. 6912.101. GENERAL POWERS. The authority has all the rights, powers, and privileges provided by general law applicable to a fresh water supply district created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 53, Water Code, and by all other laws that are helpful in carrying out the purposes for which the authority is created. (Acts 57th Leg., 3rd C.S., Ch. 20, Sec. 4 (part).)



## Source Law

Sec. 4. The Authority shall have and exercise, and is hereby vested with, all of the rights, powers, and privileges conferred by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh-water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas; but . . . .

Without in any way eliminating the generalization of the foregoing, it is expressly provided that the Authority shall have and exercise, and is hereby vested with, all of the rights, powers and privileges conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, . . . together with any and all other laws which are in any wise helpful in carrying out the purposes for which the Authority is created.

## Revisor's Note

(1) Section 4, Chapter 20, Acts of the 57th Legislature, 3rd Called Session, 1962, states that the authority "shall have and exercise, and is hereby vested with," certain rights, powers, and privileges. The revised law substitutes "has" for the quoted language because, in context, the terms are synonymous and "has" is more commonly used.

(2) Section 4, Chapter 20, Acts of the 57th Legislature, 3rd Called Session, 1962, states that the authority has the rights, powers, and privileges "conferred" by general law and the rights, powers, and privileges "conferred and imposed" by Chapter 4, Title 128, Revised Civil Statutes of Texas, 1925. The revised law substitutes "provided" for the quoted language because regardless of whether a right, power, or privilege is "conferred" or "imposed," it is not necessary to characterize in the revised law the nature of the granting of that authority. In context, "provided" is synonymous with "conferred" and "conferred and imposed" and "provided" is more commonly used.

(3) Section 4, Chapter 20, Acts of the 57th Legislature, 3rd Called Session, 1962, refers to the

1       general laws of this state "now in force or hereafter  
2       enacted." The revised law omits the quoted language as  
3       unnecessary under accepted general principles of  
4       statutory construction. The "General Laws of the  
5       State of Texas" means those laws "in force" at the time  
6       the provision was adopted. It is unnecessary to state  
7       that the authority may be granted additional powers by  
8       later enacted laws because those laws apply on their  
9       own terms.

10       (4) Section 4, Chapter 20, Acts of the 57th  
11       Legislature, 3rd Called Session, 1962, provides that  
12       Chapter 20 prevails over the general laws applicable  
13       to fresh water supply districts in case of a conflict  
14       and that those general laws are incorporated by  
15       reference. The revised law omits the portion of the  
16       provision relating to the chapter prevailing over  
17       those general laws because it duplicates, in  
18       substance, Section 311.026(b), Government Code (Code  
19       Construction Act). The revised law omits the portion  
20       of the provision relating to the incorporation of  
21       those general laws by reference because Section 4 of  
22       Chapter 20 (revised in part as this section) provides  
23       that those laws apply to the authority, and it is  
24       unnecessary to repeat that authority. The omitted law  
25       reads:

26               Sec. 4. [The Authority shall have and  
27               exercise, and is hereby vested with, all of  
28               the rights, powers, and privileges  
29               conferred by the General Laws of the State  
30               of Texas now in force or hereafter enacted,  
31               applicable to fresh-water supply districts  
32               created under authority of Section 59 of  
33               Article XVI, Constitution of Texas; but] to  
34               the extent that the provisions of such  
35               General Laws may be in conflict or  
36               inconsistent with the provisions of this  
37               Act, the provisions of this Act shall  
38               prevail. All such General Laws are hereby  
39               incorporated by reference with the same  
40               effect as if written in full in this Act.  
41               . . .

1           (5) Section 4, Chapter 20, Acts of the 57th  
2       Legislature, 3rd Called Session, 1962, provides that  
3       "[w]ithout in any way eliminating the generalization  
4       of the foregoing" rights, powers, and privileges  
5       provided by general law applicable to fresh water  
6       supply districts, the authority has certain express  
7       rights, powers, and privileges. The revised law omits  
8       the quoted language as unnecessary because an accepted  
9       principle of statutory construction requires a statute  
10      to be given cumulative effect with other statutes  
11      unless it provides otherwise or unless the statutes  
12      are in conflict. The general principle applies to this  
13      revision.

14          (6) Section 4, Chapter 20, Acts of the 57th  
15      Legislature, 3rd Called Session, 1962, refers to  
16      "Chapter 4 of Title 128, Revised Civil Statutes of  
17      Texas, 1925, together with all amendments thereto and  
18      additions thereto." The revised law substitutes a  
19      reference to Chapter 53, Water Code, for the quoted  
20      language because Chapter 4 was codified in 1971 as part  
21      of Chapter 53, Water Code, a general law applicable to  
22      fresh water supply districts. For the reader's  
23      convenience, the revised law includes a reference to  
24      Chapter 49, Water Code, because Chapter 715, Acts of  
25      the 74th Legislature, Regular Session, 1995, repealed  
26      many provisions of Chapter 53 and enacted similar  
27      provisions in Chapter 49, Water Code. The revised law  
28      omits the phrase "together with all amendments thereto  
29      and additions thereto" because under Section 311.027,  
30      Government Code (Code Construction Act), a reference  
31      to a statute applies to all reenactments, revisions,  
32      or amendments of that statute unless expressly  
33      provided otherwise.

34          (7) Section 4, Chapter 20, Acts of the 57th

Legislature, 3rd Called Session, 1962, refers to certain powers granted by Articles 7930-4 and 7941c, Vernon's Texas Civil Statutes. The revised law omits those references because the provisions, under which the powers were granted, were included in the 1971 codification of Chapter 53, Water Code, and now are contained in Chapter 53, Water Code (applicable to the authority under Section 4, Chapter 20, revised in pertinent part as this section), or have been replaced by provisions of Chapter 49, Water Code (applicable to the authority under Sections 49.001 and 49.002, Water Code). The omitted law reads:

Sec. 4. [The Authority shall have and exercise, and is hereby vested with, all of the rights, powers, and privileges] . . . including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Article 7930-4, Revised Civil Statutes of Texas, as amended, and including the power and authority to issue tax bonds, revenue bonds or combination tax and revenue bonds as authorized by and provided in Article 7941c, as amended, . . . .

#### Revised Law

Sec. 6912.102. CONTRACTS TO SUPPLY WATER OR SEWAGE SERVICES. (a) The authority may contract with a municipality or other entity to supply to the entity water or sewage services. A municipality or other entity may contract with the authority to supply to the authority water or sewage services.

(b) The authority may contract with a municipality for the rental or leasing of, or for the operation of the municipality's water production, water supply, water filtration, or purification and water supply facilities or sewerage system or facilities. A municipality may contract with the authority for the rental or leasing of, or for the operation of the authority's water production, water supply, water filtration, or purification and water supply facilities or sewerage system or facilities.

(c) A contract may be:

1           (1) on the terms and for the consideration agreed to by  
2 the parties; and

3           (2) for any period not to exceed 50 years.

4           (d) An election is not required by a municipality for  
5 approval of a water, sewer, or water and sewer contract. A contract  
6 may be entered into without the necessity of an election. (Acts  
7 57th Leg., 3rd C.S., Ch. 20, Sec. 10.)

8                           Source Law

9           Sec. 10. The Authority is authorized to enter  
10 into contracts with cities and others for supplying  
11 water and sewer services to them, and cities and others  
12 are authorized to enter into contracts with the  
13 Authority for supplying water and sewer services to  
14 the Authority. The Authority may also contract with  
15 any city for the rental or leasing, or for the  
16 operation of such city's water production, water  
17 supply, water filtration, or purification and water  
18 supply facilities or sewerage system or facilities,  
19 and any city may contract with the Authority for the  
20 rental or leasing, or for the operation of the  
21 Authority's water production, water supply, water  
22 filtration, or purification and water supply  
23 facilities or sewerage system or facilities. Any such  
24 contract may be upon such terms and for such  
25 consideration as the parties may agree, and may be for  
26 any period of time not to exceed 50 years. No election  
27 shall be required of any city or town for approval of  
28 water, sewer, or water and sewer contracts, but such  
29 contracts may be entered into without the necessity of  
30 an election.

31                           Revisor's Note

32           Section 10, Chapter 20, Acts of the 57th  
33 Legislature, 3rd Called Session, 1962, refers to any  
34 "city" and any "city or town." The revised law  
35 substitutes "municipality" for "city" and "city or  
36 town" because the meaning of "municipality" includes  
37 both cities and towns, and "municipality" is the term  
38 used in the Local Government Code.

39                           Revised Law

40           Sec. 6912.103. COST OF RELOCATING OR ALTERING PROPERTY.

41           (a) In this section, "sole expense" means the actual cost of  
42 relocating, raising, lowering, rerouting, changing the grade of, or  
43 altering the construction of a facility described by Subsection (b)  
44 in providing comparable replacement without enhancement of the

1 facility, after deducting from that cost the net salvage value of  
2 the old facility.

3 (b) If the authority's exercise of the power of eminent  
4 domain, the power of relocation, or any other power makes necessary  
5 relocating, raising, rerouting, changing the grade of, or altering  
6 the construction of a highway, railroad, electric transmission  
7 line, telephone or telegraph property or facility, or pipeline, the  
8 necessary action shall be accomplished at the sole expense of the  
9 authority. (Acts 57th Leg., 3rd C.S., Ch. 20, Sec. 5.)

10 Source Law

11 Sec. 5. In the event that the Authority, in the  
12 exercise of the power of eminent domain or power of  
13 relocation, or any other power, makes necessary the  
14 relocation, raising, re-routing or changing the grade  
15 of, or altering the construction of any highway,  
16 railroad, electric transmission line, telephone or  
17 telegraph properties and facilities, or pipeline, all  
18 such necessary relocation, raising, re-routing,  
19 changing of grade or alteration of construction shall  
20 be accomplished at the sole expense of the Authority.  
21 The term "sole expense" shall mean the actual cost of  
22 such relocation, raising, lowering, re-routing or  
23 change in grade or alteration of construction in  
24 providing comparable replacement without enhancement  
25 of such facilities, after deducting therefrom the net  
26 salvage value derived from the old facility.

27 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

28 Revised Law

29 Sec. 6912.151. TAX METHOD. (a) The authority shall use the  
30 ad valorem plan of taxation.

31 (b) The board is not required to hold a hearing on the  
32 adoption of a plan of taxation. (Acts 57th Leg., 3rd C.S., Ch. 20,  
33 Sec. 2 (part).)

34 Source Law

35 Sec. 2. . . . it shall not be necessary for the  
36 Board of Supervisors . . . to hold . . . a hearing on  
37 the adoption of a plan of taxation, but the ad valorem  
38 plan of taxation shall be used by the Authority.

39 Revised Law

40 Sec. 6912.152. IMPOSITION OF TAXES; TAX  
41 ASSESSOR-COLLECTOR. (a) Except as provided by this section, all  
42 provisions of the general laws governing fresh water supply  
43 districts that relate to the imposition of ad valorem taxes apply to

1 the authority.

2 (b) The board shall appoint a tax assessor-collector for the  
3 authority.

4 (c) The tax assessor-collector:

5 (1) shall serve at the pleasure of the board; and

6 (2) is not required to be a resident or voter of the  
7 authority. (Acts 57th Leg., 3rd C.S., Ch. 20, Sec. 6 (part).)

8 Source Law

9 Sec. 6. All provisions of the General Laws  
10 governing fresh-water supply districts relating to the  
11 assessment, levy, and collection of ad valorem taxes  
12 shall apply to the Authority, provided that the tax  
13 assessor and collector shall be appointed by the  
14 Board, shall serve at the pleasure of the Board, and  
15 need not be a resident or a voter of the Authority, and  
16 . . . .

17 Revisor's Note

18 Section 6, Chapter 20, Acts of the 57th  
19 Legislature, 3rd Called Session, 1962, refers to laws  
20 governing fresh water supply districts that relate to  
21 the "assessment, levy, and collection" of ad valorem  
22 taxes. The revised law substitutes "imposition" for  
23 "assessment, levy, and collection" because "impose" is  
24 the term generally used in Title 1, Tax Code, and  
25 includes the assessment, levy, and collection of a  
26 tax.

27 Revised Law

28 Sec. 6912.153. DEPOSITORY. (a) The board shall designate  
29 one or more banks inside or outside the authority to serve as a  
30 depository for authority money.

31 (b) All authority money shall be deposited in a depository  
32 bank, except that sufficient money shall be remitted to the  
33 appropriate bank of payment to pay the principal of and interest on  
34 the authority's outstanding bonds on or before the maturity date of  
35 the principal and interest.

36 (c) To the extent that money in a depository bank is not  
37 insured by the Federal Deposit Insurance Corporation, the money

1 must be secured in the manner provided by law for the security of  
2 county funds.

3 (d) Membership on the board of an officer or director of a  
4 bank does not disqualify the bank from being designated as a  
5 depository. (Acts 57th Leg., 3rd C.S., Ch. 20, Sec. 8.)

6 Source Law

7 Sec. 8. The Board of Supervisors shall  
8 designate one or more banks within or without the  
9 Authority to serve as depository for the funds of the  
10 Authority. All funds of the Authority shall be  
11 deposited in such depository bank or banks except that  
12 sufficient funds shall be remitted to the bank or banks  
13 of payment of principal of and interest on the  
14 outstanding bonds of the Authority and in time that  
15 such may be received by the said bank or banks of  
16 payment on or prior to the date of the maturity of such  
17 principal and interest so to be paid. To the extent  
18 that funds in the depository bank or banks are not  
19 insured by the Federal Deposit Insurance Corporation,  
20 they shall be secured in the manner provided by law for  
21 the security of county funds. Membership on the Board  
22 of Supervisors of an officer or director of a bank  
23 shall not disqualify such bank from being designated  
24 as depository.

25 Revisor's Note

26 Section 8, Chapter 20, Acts of the 57th  
27 Legislature, 3rd Called Session, 1962, refers to the  
28 authority's "funds." The revised law substitutes  
29 "money" for "funds" because, in the context of  
30 authority funds, the meaning is the same and "money" is  
31 the more commonly used term.

32 Revised Law

33 Sec. 6912.154. PAYMENT OF TAX OR ASSESSMENT NOT REQUIRED.  
34 The authority is not required to pay a tax or assessment on an  
35 authority project or any part of the project. (Acts 57th Leg., 3rd  
36 C.S., Ch. 20, Sec. 9 (part).)

37 Source Law

38 Sec. 9. . . . [the Authority] . . . shall not be  
39 required to pay any tax or assessment on the project or  
40 any part thereof, and . . . .

41 Revisor's Note  
42 (End of Subchapter)

43 (1) Section 6, Chapter 20, Acts of the 57th  
44 Legislature, 3rd Called Session, 1962, provides that



1 the board may contract with certain entities for the  
2 assessment and collection of taxes levied by and on  
3 behalf of the authority. The revised law omits that  
4 provision as repealed by Section 6(b), Chapter 841,  
5 Acts of the 66th Legislature, Regular Session, 1979,  
6 which repealed all general, local, and special laws  
7 that conflicted with that act. The 1979 act enacted  
8 the Property Tax Code (Title 1, Tax Code), a  
9 comprehensive, substantive codification of the laws  
10 governing the administration of ad valorem taxes.  
11 Section 6.24(a), Tax Code, provides that the governing  
12 body of a taxing unit other than a county may contract  
13 as provided by the Interlocal Cooperation Act with the  
14 governing body of another unit or with the board of  
15 directors of an appraisal district for the other unit  
16 or the district to perform duties relating to the  
17 assessment or collection of taxes. Section 6.24(a),  
18 Tax Code, applies to the authority under Section 1.02,  
19 Tax Code. The omitted law reads:

20           Sec. 6. . . . provided that the Board  
21           may contract with Harris County, or any  
22           city, town, village or school district in  
23           whole or in part within the Authority with  
24           regard to the assessment and collection of  
25           all taxes levied by and on behalf of the  
26           Authority. . . .

27           (2) Section 6, Chapter 20, Acts of the 57th  
28           Legislature, 3rd Called Session, 1962, provides that  
29           the bond of the tax assessor-collector is not required  
30           when certain entities contract with the authority for  
31           the assessment and collection of taxes, except as may  
32           be fixed by the board in its discretion. The revised  
33           law omits that provision because it duplicates, in  
34           substance, Section 6.29(b), Tax Code. Section 6.29(b),  
35           Tax Code, authorizes a taxing unit whose taxes are  
36           collected by the collector for another taxing unit to  
37           require that collector to post an additional bond.

Section 6.29(b), Tax Code, applies to the authority under Section 1.02, Tax Code. The omitted law reads:

Sec. 6. . . . In the event that the taxes are assessed and collected under the terms of a contract as referred to, then the bond of the tax assessor and collector shall not be required, except as may be fixed by the Board in its discretion.

## SUBCHAPTER E. BONDS

Revised Law

Sec. 6912.201. BONDS EXEMPT FROM TAXATION. An authority bond, the transfer of the bond, and income from the bond, including profits made on the sale of the bond, are exempt from taxation in this state. (Acts 57th Leg., 3rd C.S., Ch. 20, Sec. 9 (part).)

## Source Law

Sec. 9. . . . the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Revisor's Note  
(End of Subchapter)

Section 7, Chapter 20, Acts of the 57th Legislature, 3rd Called Session, 1962, lists the entities for which authority bonds are legal investments and provides that authority bonds may secure deposits of public funds of the state or political subdivisions. The revised law omits the provision relating to the eligibility of authority bonds to be considered as investments for various entities because it duplicates, in substance, Section 49.186(a), Water Code. While Section 7 lists "guardians" and Section 49.186(a), Water Code, does not, Section 49.186(a) includes "fiduciaries," and a guardian is a fiduciary. The revised law omits the provision relating to the use of authority bonds as security for deposits of state funds as impliedly repealed by Section 404.0221, Government Code (enacted in 1995), which lists eligible collateral for deposits

1 of state funds by the comptroller, and by Section  
2 404.031, Government Code (enacted in 1985 as Section  
3 3.001, Article 4393-1, Vernon's Texas Civil Statutes),  
4 which provides for the valuation of that collateral.  
5 As to securing deposits of other funds, the provision  
6 is impliedly repealed by Chapter 2257, Government Code  
7 (enacted in 1989 as Article 2529d, Vernon's Texas Civil  
8 Statutes), which governs eligible collateral for  
9 deposits of funds of other public agencies, including  
10 political subdivisions, and permits those deposits to  
11 be secured by obligations issued by conservation and  
12 reclamation districts. The omitted law reads:

13           Sec. 7. All bonds of the Authority  
14 shall be and are hereby declared to be legal  
15 and authorized investments for banks,  
16 savings banks, trust companies, building  
17 and loan associations, savings and loan  
18 associations, insurance companies,  
19 fiduciaries, trustees, guardians, and  
20 sinking funds of cities, towns and  
21 villages, counties, school districts, or  
22 other political subdivisions of the State  
23 of Texas, and for all public funds of the  
24 State of Texas or its agencies, including  
25 the State Permanent School Fund. Such bonds  
26 shall be eligible to secure deposit of any  
27 and all public funds of the State of Texas,  
28 and any and all public funds of cities,  
29 towns, villages, counties, school  
30 districts, or other political subdivisions  
31 or corporations of the State of Texas; and  
32 such bonds shall be lawful and sufficient  
33 security for said deposits to the extent of  
34 their value, when accompanied by all  
35 unmatured coupons appurtenant thereto.

36                           Revisor's Note  
37                           (End of Chapter)

38           (1) Section 2, Chapter 20, Acts of the 57th  
39 Legislature, 3rd Called Session, 1962, provides that  
40 the district is not required to hold a hearing for the  
41 exclusion of land or an election for the confirmation  
42 of the organization of the district. The revised law  
43 omits the provision as executed. The provision is a  
44 transition provision addressing the applicability of  
45 provisions of the general law in effect at the time of

1 the district's creation that governed the creation of  
2 fresh water supply districts. A district created  
3 under the general law in effect at that time would have  
4 been required at the time of its creation to hold both  
5 a confirmation election and a hearing on the exclusion  
6 of land from the district. The omitted provision  
7 negates those general law requirements as inapplicable  
8 to this legislatively created district. The power or  
9 duty to hold a hearing to exclude land subsequent to  
10 the creation of the district is governed by Subchapter  
11 J, Chapter 49, Water Code, which applies to the  
12 district under Sections 49.001 and 49.002 of that  
13 code. The omitted law reads:

14           Sec. 2. . . . [it shall not be  
15           necessary for the Board of Supervisors] to  
16           call a confirmation election or [to hold] a  
17           hearing on the exclusion of lands or . . . .

18           (2) Section 2a, Chapter 20, Acts of the 57th  
19           Legislature, 3rd Called Session, 1962, provides for  
20           the dissolution of the authority and expiration of the  
21           act if the issuance of bonds is not approved at the  
22           first bond election. The revised law omits the  
23           provision as executed because the issuance of bonds  
24           has been approved. The omitted law reads:

25           Sec. 2a. In the event, but only in  
26           the event, that a majority of the qualified  
27           voters voting at the first bond election  
28           called for that purpose fail to approve the  
29           issuance of bonds, then the Authority  
30           shall, without further action, terminate  
31           and be dissolved, and this Act shall be of  
32           no further force and effect.

33           (3) Section 12, Chapter 20, Acts of the 57th  
34           Legislature, 3rd Called Session, 1962, provides that  
35           the act is severable. The revised law omits that  
36           provision because the same result is produced by the  
37           application of Section 311.032(c), Government Code  
38           (Code Construction Act), which provides that a  
39           provision of a statute is severable from each other

1 provision of the statute that can be given effect. The  
2 omitted law reads:

3           Sec. 12. . . . If any provision of  
4 the Act shall be invalid, such fact shall  
5 not affect the creation of the Authority or  
6 the validity of any other provision of this  
7 Act, and the Legislature hereby declares  
8 that it would have created the Authority and  
9 enacted the valid provisions of this Act  
10 notwithstanding the invalidity of any other  
11 provision or provisions hereof.